REMARKS

Claims 1-16 are in the instant application, of which claims 1 and 2 are amended to more positively set forth Applicants' patentably novel eye drop container. Claims 17-20 are added to set forth Applicants' patentably novel eye dropper in varying scope. No claims are allowed or indicated allowable.

Claims 6-9, 11-13, and 16 are withdrawn from consideration pursuant to 37 CFR 1.142(b) as being drawn to a non-elected invention. Applicants timely traversed the restriction (election) requirement; however, the Office Action maintains that the requirement is proper and is made final. Applicants maintain their traversal of the restriction requirement and respectfully submit that amended generic claims 1 and 2, on which claims 6-9, 11-13, and 16 are dependent, are patentably novel over the art and, therefore, claims 6-9, 11-13, and 16 are patentable.

Claims 1-5, 10, 14, and 15 are rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 5,076,474 to Hansen (hereinafter also referred to as "Hansen").

The Office Action alleges that Hansen discloses an eye drop container including a bottomed conical hollow formed in the tip end of the container body formed from a heat-sealable synthetic resin material with a liquid filled and sealed therein. The Office Action further alleges that the hollow has an inside diameter enlarging toward the tip end, and a small-diameter instilling hole penetrated through a bottom of the hollow for controlling, at a set quantity, the liquid pushed out of the container body. The Office Action directs Applicants' attention to Figures 1 and 2 of Hansen.

Applicants respectfully traverse the rejection of claims 1-5, 10, 14, and 15 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Hansen; however, to eliminate this issue, claims 1 and 2 are amended to more positively recite Applicants' patentably novel eye dropper. More particularly, amended claim 1 recites an eye drop container having, among other things, a bottomed conical hollow formed in the tip end of the container body formed from a thermoplastic material with a liquid filled and sealed therein simultaneously during a blow molding or vacuum molding process. The hollow has an inside diameter enlarging toward the tip end and being formed by pressing of a convex forming die along an axial direction of the container; a small-diameter instilling hole penetrated through a bottom of the hollow for controlling, at a set quantity, the

liquid pushed out of the container body, the instilling hole being formed by pressed-penetration of a needle-like forming die along the axial direction of the container. An outer peripheral face is formed in an instilling tube portion of the container body on the outer side of the hollow by a bowel-shaped surface of a die in the course of either the molding process using the convex die or the forming process using the needle-like die.

Applicants' amended claim 2 recites an eye drop container having, among other things, a bottomed conical hollow formed in the tip end of a container body formed of a thermoplastic material with a liquid filled and sealed therein simultaneously during a blow molding process or vacuum molding process, the hollow having an inside diameter enlarging toward the tip end and being formed by pressing of a convex forming die along an axial direction of the container, wherein the hollow is shaped so that a small-diameter instilling hole can be penetrated through the bottom of the hollow for controlling, to a set quantity, the liquid pushed out of the container body toward the bottom of the hollow. The container further includes, among other things, an outer peripheral face formed in an instilling tube portion of the container body on the outer side of the hollow by a bowel-shaped surface of a die in the course of the molding process using the convex die.

Claims 3-5 are dependent on claim 1, and claims 7, 10, 14, and 15 are dependent on claim 2.

Support for the amendments to claims 1 and 2 is found, among other places, in the specification and drawings. Based on the foregoing, Applicants respectfully request admission of the amendments to claims 1 and 2, and consideration of claims 1-5, 7, 10, 14, and 15.

The Office Action alleges that the product by process limitations in claims 1 and 2 result in no structure that is different from Hansen. Applicants disagree. Although product by process limitations that do not change the configuration or surface of the articles can be argued as resulting in no structure, the argument fails when the product by process recites the application of components, which, by their application, alter the configuration or surface of the articles. By way of illustration and not limiting the invention thereto, shaping a surface with a die does, in fact, result in a structure.

Keeping the foregoing in mind, consider now the disclosure of Hansen and the subject matter of claims 1 and 2. Hansen's disclosure and Applicants' claimed invention each relate to a dropper bottle designed for achieving manufacturing cost reduction and

totally sterile conditions. Applicants' claimed eye drop bottle, however, is patentably different from the bottle disclosed by Hansen in that Applicants' dropper bottle can be used and is recited in the claims as an eye drop container; Hansen's bottle, on the other hand, does not lend itself to being an eye drop bottle. Specifically, in the dropper bottle of Hansen, the dropper member 7 and the bottle head are formed integrally and, for use of the bottle, a portion between the dropper member 7 and the locking member 10 is to be broken or separated. To provide for the breaking action, Hansen provides for the conical segment 6 to project outside from the dropper bottle. With the arrangement of Hansen, the separation of the dropper member 7 and the locking member 10 results in edges, which can be sharp edges, on the surface of the tip end of the dropper bottle. More particularly, the bottle of Hansen has an angular locking member, so that "[i]n order to be able to open the bottle without any inconvenience, a predetermined breaking point can be provided preferably between the locking member and the dropper member." (Hansen at column 1, lines 38-57). Further, Hansen provides the arrangement for allowing breaking (separation) between the bottle body and the locking member for use of the bottle (claim 4 and Fig. 2 of Hansen).

Applicants' claimed eye drop container, on the other hand, as shown in Fig. 1 has the tip of the open instillation container attached to the cap when this cap is attached to the container body. Further, the cap and the dropper container body are formed separately of each other and are not to be separated or broken from each other when the container is to be used.

Moreover, the eye drop container relating to amended claim 1 has the further feature of "an outer peripheral face formed in an instilling tube portion of the container body on the outer side of the hollow by a bowel-shaped surface of a die". With this, the tip of the dropper container has a smooth shape having a bowel-like formed surface. Whereas, in the case of the dropper bottle of Hansen, as described above, the rupture or separation will necessarily form sharp edges at the separated face at the tip thereof (i.e., the tip of the conical segment 8).

Applicants' eye drop container, which is formed using a bowl-shaped surface of a die, has a tip that is smooth and has a safe shape which causes no inconveniences when the tip is brought into contact with an eye surface. On the other hand and as discussed above, the dropper bottle of Hansen, which has the likelihood of the formation of edges, does not

lend itself to be used as an eye dropper bottle because of possible eye injury resulting from contact between the eye and the edges.

Consider now the position of the conical hollow (or segment) of Applicants' claimed container and the conical segment of the container disclosed in Hansen. More particularly, the container relating to amended claim 1 is characterized in that "a bottomed conical hollow formed in the tip end of the container body formed from a thermoplastic material with a liquid filled and sealed therein simultaneously during a blow molding or vacuum molding process, said hollow having an inside diameter enlarging toward the top end and being formed by pressing of a convex forming die along an axial direction of the container". The recitation in amended claim 1 and the features of the container shown in Applicants' Figs. 1 and 3-5 clearly claim and disclose that the conical hollow is formed inside the tip of the container.

In the case of the bottle of Hansen, as can be clearly seen from Fig. 2, the conical segment is formed outside (additionally) to the tip of the bottle as a projection projecting therefrom. This is completely different from the container construction of the present invention. Furthermore, since the portion between the locking member 10 provided at the tip of the conical segment 8 and the dropper member 7 needs to be broken for separation when the bottle is to be used, the construction prohibits formation of this conical segment inside the tip of the bottle.

In addition to eliminating the edges of Hansen discussed above, which do not lend the dropper of Hansen to be used for eye drops, the Hansen dropper has additional limitations eliminated by Applicants' patentably novel eye drop container. More particularly, Hansen describes that a scale is formed on the inner side of the conical segment of the dropper container. In this regard, it should be noted that the container of the present invention is designed to be used as an eye drop container so that there is no need at all of scaling of the eye drop liquid but the set quality of the liquid can be dispensed automatically or in a controlled manner by means of the bottomed conical hollow and the small-diameter instilling hole.

As described above, in view of the facts that the possibility of formation of sharp edges at the surface of the tip of the projecting portion as the result of breaking and the scale being provided for visually confirming the amount of liquid dispensed, Applicants

believe that the dropper container of Hansen is not designed to be used as an eye dropper container.

In order to further clarify the above-discussed differences between the present invention and the invention of Hansen, Applicants have prepared a comparison figure Fig. 1 (copy attached) showing the characteristic portions of these inventions, and Table 1 below showing the constructions of the tips and the forming positions of the conical portions of the two inventions in comparison. The construction shown in Fig. 1 of the tip of the bottle of Hansen is the condition thereof after the breaking separation between the bottle body and the head.

Table 1 (construction of the tips and the forming positions of the conical portions of the two inventions in comparison)

		Present invention	Hansen
tip	Construction	non-separable	separable between instilling container and head
	Surface shape	smooth bowel-shaped surface	sharp eddy surface resulting from breaking separations
	Effect	smooth surface provides no risk of eye damage when contacted therewith	sharp eddy surface provides risk of eye damage when contacted therewith
conical portion	Position	inside container tip	outside container tip
	Effect	formed inside the tip, thus giving no fear to user	projecting outside (plus sharp edges) give fear to user if used as eye dropper bottle
	Scale	No	Yes

It is believed that attached Fig. 1 clearly illustrates the structural differences in the tip of the container between the present invention and Hansen, and Table 1 above clearly shows the differences in the effects resulting from such structural differences.

In summary, the construction of Hansen requires separation between the bottle body and the head for use of the bottle and the conical segment is formed outside the tip. Also, Hansen lacks any description indicating the possibility of its bottle being used as an eye drop container. Moreover, the construction prohibits formation of the conical segment inside the tip.

The container of the present invention, on the other hand, is designed to be used as an eye drop container, with no need of scaling of the eye drop liquid to be dispensed from the container and a set amount of the liquid can be dispensed in an automatic and controlled manner through the cooperation of the bottomed conical hollow and the small-diameter instilling hole.

As discussed above, the claimed invention is patentably different from Hansen in the construction of the tip of the container, as well as the forming position of the conical hollow or segment. Based on the foregoing, Applicants respectfully submit that the present invention is not anticipated by and is not obvious in view of the disclosure of Hansen.

Applicants respectfully request withdrawal of the rejection of claims 1-5, 10, 14, and 15 under 35 U.S.C. § 102(b) or, in the alternative, under 35 U.S.C. § 103(a) and respectfully request allowance thereof. In view of the foregoing, Applicants respectfully request consideration and allowance of withdrawn claims 6-9, 11-13, and 16.

Applicants, by this Amendment, have added new claims 17-20. Support for new claims 17-20 is found, among other places, in Fig. 1 and the discussion in the specification relating thereto. The arguments put forth to patentably distinguish claims 1 and 2 over the art are applicable, among others, to patentably distinguish new claims 17-20 over similar art.

Based on the foregoing, Applicants respectfully request admission, consideration, and allowance, of claims 17-20.

This Amendment represents a sincere effort to place this case in condition for allowance. In the event issues remain, the Examiner is invited to call the undersigned before further action is taken on the case.

Respectfully submitted,

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